

1
2
3
4
5
6
7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE
10

11
12 CHRIS PHILLIPS,

13
14 Plaintiff,

15 v.

16 FISHER COMMUNICATIONS, Inc., owner of
17 and doing business as KOMO RADIO and TV,

18 Defendant.

CASE NO. C11-378RSM

ORDER OF DISMISSAL

19 This matter is before the Court for consideration of defendant's motion to dismiss, Dkt. # 16.
20 Plaintiff has not responded to oppose the motion. Having considered the record, and taking notice of
21 other related cases filed by plaintiff, the Court does now find and ORDER:

22 (1) Plaintiff filed this action for defamation and other alleged torts on March 4, 2011, Dkt. # 1.
23 He filed an amended complaint on May 2, 2011. Dkt. # 4. The amended complaint is virtually identical
24 to complaints filed in separate actions against other news media. *See, Phillips v. Hearst Corporation*,
25 C11-377RSM; *Phillips v. KIRO-TV, Inc.*, C11-379-RSM; *Phillips v. World Publishing Company*, C11-
26 558RSM; *Phillips v. Newspaper Holdings Inc.*, C11-559RSM; *Phillips v Oklahoma Publishing*
27

1 *Company, Inc., et al.*, C11-560RSM; *Phillips v. Seattle Times Company*, C11-561RSM. Five of these
2 actions have been dismissed for failure to state a claim; in the sixth action defense counsel has only
3 recently appeared and no answer or responsive pleading has yet been filed.

4 (2) Defendant appeared in this action on June 27, 2011, but did not answer the complaint. Dkt. #
5 10. Plaintiff took no action to move the case forward. On November 1, 2011, finding that plaintiff may
6 have abandoned the litigation following the dismissal of five nearly-identical actions, the Court ordered
7 plaintiff to show cause why the action should not be dismissed for failure to prosecute. Dkt. # 15.

8 (3) Before the time for plaintiff to show cause expired, defendant filed a motion to dismiss the
9 complaint, noting the motion on the Court's calendar for December 2, 2011. Dkt. # 16. The motion
10 asserts the same bases for dismissal that were asserted by defendants, and found meritorious by the
11 Court, in the other five actions. The Court vacated the Order to Show Cause so that plaintiff would have
12 an opportunity to respond to the motion to dismiss. Dkt. # 19. The Court directed plaintiff to respond
13 by November 28, 2011. *Id.* As of this date, plaintiff has neither responded to oppose the motion to
14 dismiss, nor requested an extension of time in which to do so.

15 (4) Pursuant to Local Rule CR 7(b)(2), a party's failure to oppose a motion may be deemed by
16 the Court as an admission that the motion has merit. Although plaintiff is proceeding *pro se*, he has a
17 degree in law and has demonstrated a high level of competence in following court rules and in litigating
18 his other actions. The Court finds in plaintiff's *pro se* status no reason to excuse his failure to respond
19 to the motion to dismiss.

20 (5) The Court deems plaintiff's failure to respond as an admission that the motion to dismiss has
21 merit. Accordingly, defendant's motion to dismiss is GRANTED, and this action is DISMISSED for
22 failure to state a claim and for failure to prosecute.

23 Dated this 7th day of December 2011.

24 

25 RICARDO S. MARTINEZ
26 UNITED STATES DISTRICT JUDGE
27